



Docket No.: 028750.0027-US02  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Andre Lavoie et al.

Application No.: 10/822,310

Art Unit: 2176

Filed: April 12, 2004

Examiner: Rachna Singh

For: FINANCIAL DOCUMENT CHANGE  
IDENTIFIER

**PETITION UNDER 37 C.F.R. § 1.78(A)(6)**  
**TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM UNDER 35 USC § 119(E)**  
**FOR THE BENEFIT OF A PRIOR-FILED PROVISIONAL APPLICATION**

MS Petitions - 37 C.F.R. 1.78(a)(6)  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**INTRODUCTORY COMMENTS**

Applicants hereby petition the Director under 37 C.F.R. § 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) to a prior-filed provisional application. Applicants refer to a Response to an Office Action dated November 15, 2006,<sup>1</sup> filed herewith. Applicants respectfully request that this Petition be entered in the above-identified application file as follows:

**Remarks/Arguments** begin on page 3 of this paper.

It is not believed that extensions of time or other fees are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional

<sup>1</sup> The original Office Action was mailed September 22, 2006. However, due to the delay in the Patent Office's acceptance of a Power of Attorney for Applicants' representatives, the Examiner issued a new Office Action cover page dated November 15, 2006.

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extensions of time or other fees are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account No. 50-0740.

**REMARKS**

As originally filed, the present application included a claim of priority to U.S. Provisional Application No. 60/461,386 ("the 60/461,386 application"). In the first paragraph of the specification, entitled "Prior Applications," the originally-filed priority claim recited the following, *inter alia*: "Applicant claims priority benefits under 35 U.S.C. § 119(e) of . . . U.S. Provisional Patent Application Ser. No. 60/461,386, filed May 16, 2003." Accordingly, Applicants identified the 60/461,386 application as being filed on May 16, 2003. As the Examiner correctly points out, the 60/461,386 application does not relate to the subject matter of the present application. Indeed, the inventor(s) named in the 60/461,386 application do not match any of the inventors of the present application, and the title of the 60/461,386 application, "Powered Rotary Board Turner," does not relate in any way to the subject matter of the present application. Also, the 60/461,386 application was filed on April 10, 2003, not May 16, 2003 as erroneously identified in the first paragraph of the specification.

Applicants have discovered that the claim of priority to the 60/461,386 application was a typographical error, as Applicants intended to claim priority to another application with a very similar application number. The correct and intended priority application is U.S. Provisional Application No. 60/471,386 ("the 60/471,386 application"). The 60/471,386 application was indeed filed May 16, 2003, which is the filing date that was (incorrectly) identified for 60/461,386 in Applicants' original priority claim. In attempting to claim priority to the 60/471,386 application at the time of filing this application, Applicants suspect that a "6" was inadvertently typed in the application number instead of a "7," thereby causing the present confusion. Applicants became aware of this error when the Examiner pointed it out in the present Office Action.

Applicants hereby petition the Director to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed Provisional Application No. 60/471,386, filed May 16, 2003. Applicants submit that this Petition is proper and should be granted, as it satisfies all three requirements of 37 C.F.R. § 1.78(a)(6) as follows:

(i) Applicants have amended the specification to correct the typographical error and thereby recite the proper and intended claim of priority to U.S. Provisional Application No. 60/471,386, filed May 16, 2003. Applicants included such amendment to the specification in

Applicants' Response to Office Action dated November 15, 2006, filed herewith. The amendment changes the first paragraph of the specification to recite: "Applicants claims priority benefits under 35 U.S.C. § 119(e) of U.S. Provisional Patent Application Ser. No. 60/462,065, filed Apr. 11, 2003, and U.S. Provisional Patent Application Ser. No. ~~60/461,386~~ 60/471,386, filed May 16, 2003."

(ii) Applicants submit herewith the surcharge fee as set forth in 37 C.F.R. § 1.17(t).

(iii) Applicants hereby state that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of 37 C.F.R. § 1.78 and the date of filing the claim for priority herewith was unintentional.

Accordingly, Applicants respectfully request that Applicants' original claim of priority to U.S. Provisional Application No. 60/461,386 be changed so that the application claims the benefit of U.S. Provisional Application No. 60/471,386 instead. Applicants further request an updated Filing Receipt showing the corrected priority claim to U.S. Provisional Application No. 60/471,386. Applicants submit herewith a copy of a revised Application Data Sheet, attached hereto as Exhibit 1, showing the corrected priority data.

(Applicants note that the present application also claims priority to U.S. Provisional Application No. 60/462,065 ("the '065 application"). The claim of priority to the '065 application is correct, and it remains unchanged.)

Prompt and favorable consideration of this Petition is respectfully requested.

Dated: February 15, 2007

Respectfully submitted,

By 

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**EXHIBIT 1**

**APPLICATION DATA SHEET SHOWING CORRECT PRIORITY CLAIM**



## **Application Data Sheet**

### **Application Information**

Application Type::	Regular
Subject Matter::	Utility
Suggested Group Art Unit::	2178
CD-ROM or CD-R?::	None
Sequence submission?::	None
Computer Readable Form (CRF)?::	No
Title::	FINANCIAL DOCUMENT CHANGE IDENTIFIER
Attorney Docket Number::	028750.0027-US02
Request for Early Publication?::	No
Request for Non-Publication?::	No
Total Drawing Sheets::	9
Small Entity?::	No
Petition included?::	No
Secrecy Order in Parent Appl.?::	No

### **Applicant Information**

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**Correspondence Information**

Correspondence Customer Number:: 26853

### Representative Information

Representative Customer Number:: 26853

### Domestic Priority Information

Application::	Continuity Type::	Parent Application::	Parent Filing Date::
This application is	An application claiming the benefit under 35 USC 119(e)	60/462,065	04/11/03
This application is	An application claiming the benefit under 35 USC 119(e)	<del>60/461,386</del> <u>60/471,386</u>	05/16/03

### Foreign Priority Information

### Assignee Information

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